

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

HERBERT HENDERSON,	)	CASE NO. 1:21-cv-00596
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
GAMING ENTERTAINMENT	)	
(INDIANA), LLC, and KONE, INC.	)	
	)	
Defendants.	)	
	)	

**NOTICE OF REMOVAL**

Defendant KONE, Inc. (“KONE”) removes this matter to this Court pursuant to 28 U.S.C. §§1332, 1441 and 1446, and in support thereof, states as follows:

1. On or about February 4, 2021, Plaintiff Herbert Henderson filed the following lawsuit in the Hamilton County Superior Court: *Herbert Henderson v. Gaming Entertainment (Indiana) LLC and KONE, Inc.*, Cause No. 29D05-2102-CT-000773 (Exhibit A-State Court Action).

2. Defendant KONE, Inc. was served with a Summons and Complaint for the State Court Action on February 10, 2021 via certified mail. Defendant Gaming Entertainment (Indiana), LLC was served with a Summons and Complaint for the State Court Action on February 10, 2021 via certified mail. KONE has attached the State Court Record including a true and correct copy the Summons and Complaint and copies of all pleadings that have been filed in connection with this suit. KONE has not served an answer in the State Court Action.

3. This Notice of Removal is filed within 30 days of receipt of the initial pleading by KONE, and within one year of the commencement of this action, as mandated by 28 U.S.C. §

1446(b). *See Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999). Accordingly, removal of this action is timely.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332, in that there is complete diversity of citizenship and the damages sought exceed the sum of \$75,000 as demonstrated by the following:

a. Plaintiff Herbert Henderson was, at the time of the incident giving rise to this litigation and is now, domiciled in Hamilton County, Indiana. (State Court Action, p. 1).

b. Defendant KONE, Inc. was, at the time of the commencement of this action and at the present time, a corporation organized and duly incorporated under the laws of the State of Delaware with its principal place of business located in the State of Illinois, and by virtue of being incorporated in and having its principal place of business located in said states, KONE, Inc. was, at the time of the commencement of this action and is now, domiciled in the States of Delaware and Illinois, and was not then and is not now domiciled in Indiana.

c. Defendant Gaming Entertainment (Indiana), LLC was, at the time of the commencement of this action and at the present time, a limited liability company wholly owned by Full House Resorts, Inc. Full House Resorts, Inc. was, at the time of the commencement of this action and at the present time, a corporation organized pursuant to the laws of the State of Delaware with a principal place of business located in the State of Nevada. By virtue of being incorporated in and having its principal place of business located in said states, Full House Resorts, Inc. was, at the time of the commencement of

this action and is now, domiciled in the States of Delaware and Nevada, and was not then and is not now domiciled in Indiana.

5. This lawsuit is, therefore, a civil action over which this Court has original jurisdiction under 28 U.S.C. §1332, and is one which may be removed to this Court under 28 U.S.C. §§ 1441 and 1446. Further, removal to this judicial district and division is proper under 28 U.S.C. § 1441(a), as this district and division embrace Marion County, Indiana where this lawsuit is pending.

6. This Notice is accompanied by copies of all process, pleadings, and orders served upon or by KONE in this lawsuit. (See State Court Record hereto.)

7. Promptly after it is filed with this Court, KONE will serve this Notice on Plaintiff and file a copy of this Notice with the Clerk of the Hamilton County Superior Court.

8. Defendant Gaming Entertainment (Indiana), LLC consents to the removal of this case to this Court pursuant to 28 U.S.C. §1332, 1441, and 1446.

9. The Notice is signed in accordance with Federal Rule of Civil Procedure 11.

WHEREFORE, this action is properly removed from the Hamilton County Superior Court, Indiana, to this Court for all further proceedings.

Respectfully submitted,

FROST BROWN TODD LLC

By: /s/ Blake N. Shelby

Blake N. Shelby

Attorneys for Defendant KONE, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11<sup>th</sup> day of March, 2021, a copy of the foregoing document was filed electronically. Service of this filing will be made on all registered counsel by electronic mail on the following

Andrew Dickerson  
Heather R. Kinser  
HOLT LEGAL GROUP  
198 South 9<sup>th</sup> Street  
Noblesville, Indiana 46060  
adickerson@holtlegal.com  
hkinser@holtlegal.com  
*Attorneys for Plaintiff Herbert Henderson*

J. Patrick Schomaker  
Justin M. McMullen  
ROLFES HENRY, CO., LPA  
600 Vine Street, Suite 2600  
Cincinnati, OH 45202  
pschomaker@rolfeshenry.com  
jmcullen@rolfeshenry.com  
*Attorney for Gaming Entertainment, (Indiana)*  
LLC

/s/Blake N. Shelby  
Blake N. Shelby

FROST BROWN TODD LLC  
201 N. Illinois St., Suite 1900  
P.O. Box 44961  
Indianapolis, IN 46244-0961  
317-237-3800  
Fax: 317-237-3900  
bshelby@fbtlaw.com

LR08831.0740748 4850-1082-7231v1